

INITIAL STATEMENT OF REASONS

The following Initial Statement of Reasons has been prepared in regard to the proposal of the New Motor Vehicle Board of the State of California to amend Section 599 of Article 7, Chapter 2, Division 1, of Title 13 of the California Code of Regulations.

INTRODUCTION

The New Motor Vehicle Board ("Board") is an agency within the Department of Motor Vehicles ("Department") with oversight provided by Business, Transportation and Housing Agency. The Board consists of nine members, seven of which are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee (see Vehicle Code sections 3000 and 3001).

The duties of the Board include the following:

1. To Adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing those matters that are specifically committed to its jurisdiction.
2. To hear and determine "appeals" which are filed by specified occupational licensees within the new motor vehicle industry as a result of adverse disciplinary action taken by the Department against the license of such entity. (Vehicle Code section 3050(b)).
3. Consider any matter concerning the activities or practices of any person applying for or holding a specified type of occupational license. These disputes are considered by the Board as a result of the filing of a "petition", which may be done by any person. (Vehicle Code section 3050(c)).
4. To hear and decide "protests" filed by new motor vehicle dealers against their respective franchisors, pursuant to the provisions of the Automotive Franchise Act. (Vehicle Code sections 3050(d), 3060, 3062, 3064, 3065, and 3065.1). These protests pertain to specified types of franchise disputes between the dealer (franchisee) and the manufacturer or distributor (franchisor).

SECTION 599

PURPOSE OF THE REGULATION

In 2000, the Board reclassified its two senior management positions as follows: the Board's Executive Secretary position was recast as Executive Director and the duties of the Board's Assistant Executive Secretary were changed to that of General Counsel. In addition, following a review of the class of designated employees in the Conflict of Interest Code of the Department of Motor Vehicles (Department), the Board determined it should designate in its Conflict of Interest Code, employee positions at the Board which mirror those in like positions at the Department.

Due to the reclassification of the Board's senior management positions and the inclusion of additional employee positions in the class of designated employees, the Board's Conflict of Interest Code needs to be revised.

The proposed amendments will add to the Board's Conflict of Interest Code list of designated positions the Board's Executive Director and General Counsel. The proposed amendments will add to the list of designated positions, employee positions which, within the meaning of Commission Regulation 2 Cal. Code of Regs. Section 18700, make or participate in the making of governmental decisions. The revised Conflict of Interest Code is consistent with Government Code Section 87306.

NECESSITY

The proposed regulation is necessary to ensure that all designated positions are included in the Board's Conflict of Interest Code.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Board relied upon the provisions of Government Code section 81000, et seq.

ALTERNATIVES TO THE REGULATION

In accordance with Government Code section 11346.5, subdivision (a)(12), the Board must determine that no alternative it considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

At the January 18, 2001, General meeting, wherein the Board preliminarily adopted the proposed regulatory text, no other alternatives were considered. However, the Board President, Robert T. (Tom) Flesh invited and encouraged the submission of

written and oral comments. Furthermore, Mr. Flesh indicated that the Board instructing staff to go forward with the proposed rulemaking, did not necessarily indicate final Board action. If any written or oral comments were received, the full Board would consider the comments and reconsider the text of the proposed rulemaking. Lastly, if the staff decided that modifications to the proposed text were necessary, the Board would consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.